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Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents

Working Group on the Development of the Convention

Fifth meeting
Geneva, 11–13 May 2015
Item 5 (a) of the provisional agenda
Guidance by the Conference of the Parties: provisions related to land-use planning

Guidance document on safety and land-use planning

Note by the secretariat

Summary

At its eighth meeting (Geneva, 3–5 December 2014), the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents requested the Working Group on the Development of the Convention to review a guidance document on safety and land-use planning, on the basis of a draft drawn up with external expertise, for the governing body's consideration and possible adoption at its ninth or, alternatively, tenth meeting.

The present note should serve as a basis for the Working Group's future review, setting out the basic elements for the guidance and outlining the scope, contents and organization of work for its development. The Working Group is invited to take note of the proposed approach to the development of the guidance document on safety and land-use planning, including the linkages with other legal instruments and reference materials highlighted therein.

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I. Background and mandate

1. At its eighth meeting (Geneva, 3–5 December 2014), the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention) requested the Working Group on the Development of the Convention (Working Group on Development) to review a guidance document on land-use planning, on the basis of a draft drawn up with external expertise. The Conference of the Parties asked for the document to be ready for possible adoption at its ninth or, alternatively, tenth meeting. The European Investment Bank, the lead organization for the preparation of the guidance document, is financing its development by a consultant.

II. Scope

2. As requested by the Conference of the Parties, the guidance document will be developed in order to:

(a) Clarify the link between the general provisions of the Convention in article 3, paragraph 1, and the land-use planning/siting procedures in article 7 of the Convention;

(b) Explain how the notion of land-use plans and programmes used in other relevant international multilateral environmental agreements and legal instruments applies to the Convention's provisions on the siting of hazardous activities;

(c) Be aligned with the provisions of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and the Seveso III Directive.[1]

3. As such, the guidance document will address the synergies between the Industrial Accidents Convention and the Protocol on Strategic Environmental Assessment (Protocol on SEA) to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) in relation to the siting of hazardous activities, in order to provide guidance on the implementation of these instruments to the Parties to both instruments.

4. At the same time, as agreed by the Bureau during its meetings in June 2014 and January 2015, the guidance document should present examples and good practices with regard to land-use planning/the siting of hazardous activities in the United Nations Economic Commission for Europe (ECE) region. The examples will draw on existing work, including the overview of road maps for land-use planning and the land-use planning guidelines, developed by an expert group under the European Commission Joint Research Centre.[2] This information will be complemented with additional research, including on approaches and good practices beyond the European Union (EU), in liaison with experts. The ECE Committee on Housing and Land Management has developed guidance on spatial

[1] Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC.

[2] "Implementing art. 12 of the Seveso II Directive: Overview of roadmaps for land-use planning in selected Member States", JRC Scientific and Technical Reports ,EUR 23519 EN (Luxembourg: Office for Official Publications of the European Communities, 2008), available from http://ipsc.jrc.ec.europa.eu/fileadmin/repository/sta/mahb/docs/LandUsePlanning/LUP_Roadmaps.pdf, and "Land use planning guidelines in the context of Article 12 of the Seveso II Directive" (September 2006), available from: http://ec.europa.eu/environment/seveso/pdf/landuseplanning_guidance_en.pdf.

planning with special reference to countries in transition,[3] which need to be considered as generally agreed approaches and principles to land-use planning in the ECE region.

5. At the joint seminar on land-use planning around hazardous industrial sites, organized in the framework of the ECE Industrial Accidents Convention and the Committee on Housing and Land Management (The Hague, 11–12 November 2010), participants agreed that industrial safety aspects were not well integrated in land-use planning and that cooperation was lacking between the main stakeholders. They recommended that criteria/standards for safety and land-use planning should be developed by safety and land-use planning experts. These criteria/standards should incorporate long-term trends and consider different levels of development by different countries. The participants also recommended that a publication be prepared containing best available practices on safety and land-use planning and addressing clearly and simply the societal risks.[4] Per the request of the Conference of the Parties, the safety and land-use planning guidance document to be developed will take account of the recommendations of the joint seminar.

III. Content

6. The guidance document will contain:

(a) A legal analysis of the Industrial Accidents Convention regarding its provisions related to land-use planning and siting of hazardous activities;

(b) The linkages of these provisions with other legal instruments, including the Aarhus Convention, the Protocol on SEA and the Seveso III Directive;

(c) Information on approaches, experiences and good practices with regard to land-use planning/siting of hazardous activities in ECE member States.

7. In this regard, information from the relevant communities and experts under the Industrial Accidents Convention, the Protocol on SEA and the ECE Housing and Land Management Committee, as well as the work carried out under the auspices of the EU Joint Research Centre, will be taken into account, in addition to the conclusions and recommendations of the seminar on land-use planning around hazardous industrial sites.

IV. Organization of work

8. The European Investment Bank, in cooperation with the ECE secretariat, will commission a consultant as of 2015. The consultant will be responsible for drafting the guidance document (legal analysis of the provisions of the Industrial Accidents Convention and of its linkages with other legal instruments, literature review, including from national or international sources, consultations with key experts, including governmental and non-governmental stakeholders, collecting information on approaches and good practices, etc.).

9. It is proposed that a small group of experts on land-use planning be established by the Working Group to review the work of the consultant, examining the outline, initial and intermediate drafts, and providing expert comments conducive to the finalization of the

[3] *Spatial Planning: Key instrument for Development and Effective Governance* (ECE/HBP/146). Available from http://www.unece.org/hlm/publications_recent10.html.

[4] The report of the meeting is available from http://www.unece.org/fileadmin/DAM/env/documents/2010/teia/Report_Joint_Seminar_EN.pdf.

guidance document, and report back to the Working Group on Development (see ECE/CP.TEIA/WG.1/2015/3 and annex II).

10. In order to facilitate the identification and exchange of good practices, it is further proposed to organize a one-day joint workshop on land-use planning/siting of hazardous activities in Geneva in spring 2016, back to back with the meetings of the Working Group on Development and the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment under the Espoo Convention, which are scheduled to be held during the same week (11–14 April 2016, to be confirmed). It is envisaged that the workshop would be organized jointly by the ECE secretariats to the Industrial Accidents Convention, the Protocol on SEA and the Committee on Housing and Land Management, to take account of existing synergies and provide an opportunity for a meeting of the respective communities. In addition to providing a forum for ECE countries to present experiences and good practices, this event will be an opportunity for experts to provide comments on the draft guidance document before its finalization.

11. Depending on the agreed timeline, the final draft of the guidance document could be presented for review and adoption by the Conference of the Parties at its ninth, or alternatively, its tenth, meeting. It is also envisaged that the guidance be presented for adoption to the Meeting of the Parties of the Protocol on SEA scheduled to take place in 2017.